



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**September 10, 2007
Room 640, Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met September 10, 2007, at 9:30 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 640. Chairman William R. Flowers, Jr. called the meeting to order, and the following business was transacted.

COMMISSION MEMBERS PRESENT

Dr. Edward A. Baryl
Marc Headden
William R. Flowers, Jr.
James E. Wade, Jr.
John Bullington
Kenneth Woodford
Herbert Eugene Phillips
Jason West

STAFF MEMBERS PRESENT

Nikole Avers, Administrative Director
Bethany Heuer, Staff Attorney
Angie Stephens, Administrative Assistant

ADOPT AGENDA

The commission voted to adopt the agenda. Mr. West made the motion to accept the agenda and it was seconded by Mr. Wade. Motion carried unopposed.

MINUTES

The August 2007 minutes were reviewed. Mr. Phillips made the motion to accept the minutes as written. It was seconded by Mr. West. Motion carried unopposed.

GENERAL BUSINESS

Applicant Letter

Ms. Avers discussed a letter received from Greg Helinske an out of state appraiser applicant whose license expired in 2001. Mr. Helinske was a "Registered Real Property Appraiser" in Minnesota from 1999 to 2001. He was informed previously by Ms. Avers that he would have to start over with all the requirements for licensure or certification because his previous license was no longer valid. He wrote a letter to the Commission stating that he cannot find a sponsor and does not have means to retrieve his appraisal experience because it was more than five years ago. Ms. Avers wanted to the Commission Members to acknowledge letter sent to recipient. She stated she would send the applicant a follow-up letter affirming the requirements.

Education Committee Report

Dr. Edward Baryla made recommendation to approve the Education report as submitted by staff, with the exception of the course provider Appraisal Institute for the course On-Line Small Hotel/Motel: Limited Service Lodging. Dr. Baryla stated this course could be approved upon submission of an explanation for marking yes on the character question. Dr. Baryla felt it may have been a typo. Also, regarding the course Mortgage Fraud, submitted by Appraisal Institute, Dr. Baryla stated this course could be approved upon submission of instructor resumes which were not contained in his copy of the course packet. Dr. Baryla made recommendation to deny the courses On-Line Basic Appraisal Procedures and On-Line Basic Appraisal Principles submitted by Appraisal Institute. Dr. Baryla stated the courses were qualifying education courses and on-line qualifying education courses are not acceptable by the current Real Estate Appraiser Commission rules. Dr. Baryla made recommendation to approve Instructor, Tommy Duncan, for the Appraisal Institute for the course Mortgage Fraud upon submission of his resume. Dr. Baryla made recommendation to approve the individual course approval submitted by staff, with the exception of David Wills. He stated the course does not appear to have appraisal content. He also recommended denying the Real Estate Litigation course submitted by Doyle Monday for the same reason. Mr. Wade made the motion to accept the recommendation and Mr. Headden seconded that motion. The motion carried unopposed. The following are the courses and individual course approvals from the education report:

EDUCATION COMMITTEE REPORT September 10, 2007

Course Provider	Course Number	Course Name	Instructors	Credit Hours	Credit Type
Appraisal Institute	1121	On-Line Small Hotel/Motel:David Lennhoff Limited Service Lodging		7	CE
Appraisal Institute	1116	On-Line Analyzing Distressed Real Estate	Ted Anglyn	4	CE
Appraisal Institute	1127	On-Line Basic Appraisal Principles		DENIED	
Appraisal Institute	1126	On-Line Basic Appraisal Procedures		DENIED	
Appraisal	1123	On-Line Real Estate		14	CE

Institute		Finance, Statistics, and Valuation Modeling			
Appraisal Institute	1125	On-Line Scope of Work: Expanding Your Range Of Service		7	CE
Appraisal Institute	1124	On-Line The Professional's Guide to the Uniform Residential Appraisal Report		7	CE
Appraisal Institute Greater Tennessee Chapter	1117	Mortgage Fraud	Various	7	CE
Nat'l Assn of Independent Fee Appraisers	1118	1.5C Residential Analysis for Small Income Property Appraisals	Charles Wallis	8	CE
Nat'l Assn of Independent Fee Appraisers	1119	5.3 Scope of Work	John Story	7	CE
Nat'l Assn of Independent Fee Appraisers	1120	Institutional Fraud	Monica Trotter	4	CE
National Business Institute	1122	Complying with Land Use Laws and Regulations	Various	7	CE

Instructors Only

Name	Course Provider	Course Name	Credit Hours	Credit Type
Tommy Duncan*	Appraisal Institute - Greater Tennessee Chapter	Mortgage Fraud	7	CE
		*To be added to the above Mortgage Fraud course approval		

Individual Course Approval

Name	Course Provider	Course Name	Credit Hours	Credit Type
David Willis	IAAO	Advanced Mapping Methods & Applications	DENIED	
Doyle Monday	American Bar Assn Seminar and Institute of Professionals In Taxation	Advanced Property Tax	14	CE
Doyle Monday	Lorman Education Services	Real Estate Litigation	DENIED	

George Long	Appraisal Institute Utah Chapter	Litigation Skills for the Appraiser	7	CE
Lisa Kroth	Holloway's Institute, Inc.	Uniform Standards of Professional Practice	15	QE
	Holloway's Institute, Inc.	Real Estate Appraisal I (Basic Appraisal Principles)	30	QE
	Holloway's Institute	Real Estate Appraisal II (Basic Appraisal Procedures)	30	QE
	Northern MI University	Real Estate Market Analysis, highest & Best Use	15	QE
	Northern MI University	Narrative Report Writing	15	QE
	Holloway's University	Appraisal III	15	QE
Janet Jansen *	Institute of Florida Real Estate Careers, Inc.	Residential Appraisal Course	75	QE
	Real Estate Education Specialists	Residential Course II	45	QE
		* For Approval on Certified Residential Application		

EXPERIENCE INTERVIEWS

Jennifer Martin, made application to upgrade from registered trainee to certified residential appraiser. Mr. Headden was the reviewer and recommended not approving the upgrade application at this time. Mr. Headden further recommended a fifteen hour cost approach course based on applicant's insufficient knowledge on cost approach. Upon successful completion of course, Mr. Headden recommended approval and stated Ms. Martin would not need to appear before the Commission again for a second experience interview. Mr. Wade made the motion to accept the recommendation and Mr. West seconded the motion. The motion carried unopposed.

Lori Babb, made application to upgrade from registered trainee to a certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Mark Bebout, made application to upgrade from a licensed appraiser to a certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Angela Schmidt, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Headden was the reviewer and recommended approval. Mr. Wade made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

James Brock, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Phillips was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Joshua Overton, made application to upgrade from a registered trainee to a certified residential appraiser. Mr. Phillips was the reviewer and recommended approval. Mr. Headden made the motion to accept recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Dean House, made application to upgrade from a licensed appraiser to a certified residential appraiser. Mr. Phillips was the reviewer and recommended approval. Mr. Headden made the motion to accept recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Joseph Wilson, made application to upgrade from registered trainee to certified residential appraiser. Mr. Phillips was the reviewer and recommended approval. Mr. Headden made the motion to accept recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

Bryon Griffith, made application to upgrade from licensed appraiser to certified residential appraiser. Mr. Flowers was the reviewer and recommended approval. Mr. Headden made the motion to accept recommendation and Mr. West seconded the motion. The motion carried unopposed.

David Hicks, made application to upgrade from registered trainee to certified residential appraiser. Mr. Flowers was the reviewer and recommended approval. Mr. Headden made the motion to accept recommendation and Mr. West seconded the motion. The motion carried unopposed.

Westley Willett, made application to upgrade from registered trainee to licensed appraiser. Mr. Flowers was the reviewer and recommended approval. Mr. Headden made the motion to accept recommendation and Mr. Baryl seconded the motion. The motion carried unopposed.

Kenneth Newton, made application to upgrade from licensed appraiser to certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Phillips made the motion to accept recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

Doug Bingham, made application to upgrade from registered trainee to certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Headden made the motion to accept recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

G. Martin Hansberry, made application to upgrade from registered trainee to certified general appraiser. Mr. Bullington and Mr. Woodford were the reviewers and recommended to not approve the application until completion of additional reports showing income analysis, band of investment

procedures and yield rate vs. dividend rate or a written statement describing all of the above including procedural development and knowledge of data collection for these. Mr. Bullington stated Mr. Hansberry would be required to appear before the Commission again. Mr. Headden made the motion to accept recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Zach Dorris, made application to upgrade from registered trainee to certified general appraiser. Mr. Bullington and Mr. Woodford were the reviewers and recommended to not approve the application until completion of two additional commercial reports with written explanation of capitalization rates, discount rates and band of investment procedures. They stated Mr. Dorris would not be required to appear before the Commission again if the reports were deemed satisfactory by the reviewers. Mr. Headden made the motion to accept recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

Jennifer Teeple, made application to upgrade from registered trainee to certified residential appraiser. Mr. Flowers was the reviewer and stated that her appraisals were not USPAP compliant because she was only identified as having contributed significant appraisal assistance in the letter of transmittal and not in the appraisal report. Mr. Flowers recommended that an additional 500 hours of experience be requested and it be made known to the supervisor that the trainee would have to be identified in the certification and appraisal report or that she would have to sign these appraisal reports.

The Real Estate Appraiser Commission meeting was adjourned temporarily at 9:55 a.m. CST due to a scheduled formal hearing. The Commission meeting reconvened at 3:00 p.m. CST, after the formal hearing had concluded, to finish the business of the day.

LEGAL REPORT

The following consent order was presented to the Commission for consideration of approval.

Dwinn Terry –signed Consent Order agreeing that she violated Rule 1255-1-.13(4)(c) by submitting an appraisal report to the client from her home computer, and using her supervisor's electronic signature without review or authorization from her supervisor. Respondent agreed to have her current supervising appraiser certify by notarization all appraisals performed by Respondent while she is working as a trainee. Respondent also agreed to wait for one year from the date of this acceptance of this consent order to re-apply for licensure upgrade.

Vote: A motion was made to approve the consent order was made by Mr. Woodford. Mr. Wade seconded that motion. The motion carried unopposed.

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1. L07APP-RBS-2007073131 Mr. Woodford was the reviewer.

The Complainant, a consumer, alleged Respondent under-valued a residential property because the appraisal misreported the contract price. Complainant states that the original offer for the property was \$215,000, but the final sales price was \$219,900. The appraisal valued the subject at \$215,000. Complainant states the appraisal stated in 3 places that the "contract price" was \$215,000. Complainant believes that the misreported contract price was the problem "since the

comps would have given me the \$219,900 with no problem." Complainant states according to the mortgage company, they contacted [Respondent] and he held the appraisal at \$215,000 even though it was improperly documented in the appraisal.

Complainant called [Respondent] to discuss the issue with him and says he got the distinct impression that respondent had been misinformed by the mortgage company about the price of the house. Complainant filed a complaint against the mortgage company, but states the response is empty because of client confidentiality. Complainant does not believe it is the fault of the appraiser, but states he wants more facts.

The Respondent stated that he reported the sales price of this property in his appraisal as \$215,000, which is the sales price on the contract he was supplied by the mortgage company for this assignment. The Respondent stated he was made aware by the mortgage company that the purchase price had been negotiated to \$219,900 **after** the appraisal was submitted and reviewed at the mortgage company, not before.

Respondent states the appraisal contains 5 sales, the additional 4th-5th comparables were added at the request of the mortgage company, subsequent to submission of the original. Respondent states the original appraisal contained sales 1-3 only, no changes to the value estimate (or otherwise) were made other than the addition of the 2 additional comparables and addition of sales 4-5 to the map and photo pages. Respondent states the appraisal is accurate and reflects current market value for this property; his value estimate was not influenced by the purchase agreement; and he does believe the sales price at \$215,000 is in step with the current market conditions in the area as his appraisal should indicate. *No prior complaint history.*

Recommendation and reasoning: Mr. Woodford states the original appraisal contained three comparisons located within 0.18 to 0.87 miles of the subject property. These properties sold between February and June 2007 at prices ranging from \$200,000.00 to \$229,000.00. After adjustments, primarily for size differences, the value range indicated from the three sales based on the appraiser's computation supported a value range from \$206,230 to \$222,430. After the original submission, the client (Mortgage Company) requested additional comparables. The appraiser provided two additional comparables located within less than one mile of the subject property that had sold between October 2006 and April 2007. These properties sold in the range of \$219,000. After adjustments for size (both comparables larger), the property's value was indicated to range from \$215,395 to \$216,460. The appraiser's opinion of value was \$215,000 both before and after the addition of comparables 4 and 5. Mr. Woodford saw no significant errors in appraisal and recommended **dismissal**.

Vote: A motion was made to approve the recommendation by Mr. Wade. Mr. Phillips seconded that motion. The motion carried unopposed.

2. L07-APP-RBS-2007072031 - Mr. Bullington was the reviewer.

Complainant, a consumer, alleged Respondent under-valued a commercial property. Complainant purchased the subject for \$150,000 in February of 2004 and subsequently put in about \$50,000 in renovations in order to prepare the property for re-sale. Complainant stated that in January of 2005 the Respondent appraised this property for \$175,000. The Complainant included Chandler market data, cost data, and tax assessor data to support his allegations.

Respondent stated the value opinion on the appraisal report in January of 2005 was \$200,000, not \$175,000, for the property appraised, which was a conversion from a vacant restaurant to a used car dealership. Respondent stated three of the comparables used to support the value opinion were former restaurants that had been converted to used car dealerships; the tax appraisals have absolutely no bearing on the opinion of market value; the comparables submitted by the Complainant were not appropriate because they were much larger buildings and was a conversion to a medical office which had much higher conversion costs; two comparables submitted were eleven and thirteen years prior to the date of the appraisal; and that the final two comparables submitted were listings, not sales, and were not comparable properties including a Wal-Mart lot (much larger), a McDonald's restaurant, and a convenience store. The Respondent states the value opinion is well supported and was developed using appropriate methodology and comparables. *No prior complaint history.*

Recommendation and reasoning: Reviewer identified no significant errors, states the complaint is without merit, and recommends **dismissal**.

Vote: A motion was made to approve the recommendation by Mr. Phillips. Mr. Woodford seconded that motion. The motion carried unopposed.

3. L07-APP-RBS-2007068521 Multiple Respondents. Mr. Phillips was the reviewer. The Complainant, a consumer, alleged the multiple appraisers over-valued their home since their purchase of the home in 2001 causing them to have a mortgage that is 115% to 125% loan to value. This complaint was additionally referred from the Department of Financial Institutions.

Respondent 1 stated in her response letter that she appraised the property in 2005 for \$195,000, which was \$2,000 lower than the previous appraisal. Respondent stated that all comparables used were in the very immediate proximity to the subject property and bracketed the value opinion and provided data to support the value opinion. *No prior complaint history.*

Respondent 2 stated in her response letter that she appraised the property in 2007 for \$205,000, which was middle of the range of values for the immediate neighborhood. Respondent stated that all comparables used were in the close proximity to the subject property and similar in square footage and features. She also stated the subject property was purchased in 2001 for \$180,000 as a normal sale. She stated did not have any specifics on the mortgage(s) this property has received. *Prior complaint history: 200500794 (Dismissed).*

Respondent 3 said his appraisal was from 2002, and he no longer had those files as it was more than five years ago. He requested a copy of the appraisal be sent to him so he could further respond. A copy of the appraisal sent by the Department of Financial Institutions was forwarded to this respondent. *No prior complaint history.*

Respondents 4 completed an appraisal in 2001 with the below Respondent 5. *Prior complaint history: 944129 (Dismissed).*

Respondents 5 completed an appraisal in 2001 with the above Respondent 4. *No prior complaint history.* Respondents 4 and 5 state they did the appraisal for the purchase of the home from the builder. Respondents state they stand behind their 2001 value opinion of \$184,000. They state

the borrowers refinanced their home multiple times and should not have expected the house to appreciate so rapidly.

Recommendation and reasoning Respondent 1: Mr. Phillips found no USPAP violations in this appraisal and recommends **dismissal**.

Recommendation and reasoning Respondent 2: Mr. Phillips found no USPAP violations in this appraisal; however, he noted that this Respondent did not include the cost approach which appeared to be the norm in the subject area for a credible appraisal. Mr. Phillips recommends a **Letter of Warning** regarding USPAP and the removal of the Departure Provision and inclusion of the Scope of Work Rule in the 2006 Edition, referencing Advisory Opinion 28.

Recommendation and reasoning Respondent 3: Errors and omissions were found, including inconsistently reporting the square footage, age and room count. Respondent 3 appears to have copied the appraisal of Respondents 4 & 5 word for word without identifying significant real property appraisal assistance. This Respondent also appears to have failed to analyze and report the sales history for the subject property. Mr. Phillips recommends a very stern **Letter of Warning** regarding omission in the cost approach of the garage and patio.

Recommendation and reasoning Respondents 4 & 5: Due to errors and omissions found, including omission in the cost approach of the cost of the attached garage and patio, Mr. Phillips recommends a **Letter of Warning** regarding omission in the cost approach of the garage and patio.

Vote: A motion was made to approve the recommendation by Mr. Headden. Mr. Wade seconded that motion. The motion carried unopposed.

4. L07-APP-RBS-2007070961 - The reviewer was Mr. Headden.

The Complaint, submitted anonymously, alleges the Respondent appraised a residence which exceeded the license level transaction limits. Complainant further alleges failure to support adjustments or lack of adjustments, use of superior comparables, and failure to reconcile value indications were also included in this complaint.

The Respondent states the following:

- He unknowingly violated the \$1,000,000 transaction value limit that applies to licensed appraisers because he believed that only applied to multi-family properties.
- He used sales of similar size and age.
- A sale from 2003 for \$2,150,000 in the subdivision further supports his value opinion, but it was not used due to the age of that sale.
- He made adjustment based on "local market's monetary tolerances to these differences".
- He admits he failed to make an age adjustment, but feels any adjustment would be subjective and could not discern a "fiscal difference in age".

No prior complaint history.

Recommendation and reasoning: Mr. Headden states Respondent violated Tenn. Code Ann. § 62-39-302 (has appraised a property that is above licensed limit for transaction value). In doing so,

Respondent also violated the Competency Rule of USPAP, as well as the Conduct Section of the Ethics Rule. It does appear that the comparables may not have been adjusted correctly. The Cost Approach value indication is significantly less than Sales Comparison Approach and Final Value Estimate, there was no discussion as to why. Reviewer recommends a **Consent Order** with inclusion of a 15-hour USPAP with no credit given for continuing education and a 30-hour basic appraisal procedures course with successful completion of the examination and no credit given for continuing education, and a \$2,500 fine. Staff recommends approval of informal conference and formal hearing, as needed.

Vote: A motion was made to approve the recommendation by Mr. Phillips. Mr. Wade seconded that motion. The motion carried unopposed.

5. L07-APP-RBS-2007068161 The reviewer was Mr. Headden.

This complaint was filed by TREAC with allegation of over-valuing a residential property, failing to analyze the current agreement of sale, including two certification forms with conflicting information, and insufficiently describing the property characteristics.

Regarding the first allegation of over-valuing the property, Respondent states:

- Comparables 1 and 2 are located in the immediate area of the subject and are similar to the subject in heated square foot area, age and design.
- Comparable 3 is located in a nearby, competitive area and is also similar in size, age and design.
- The comparables are all adjusted for the differences in bathroom count, square foot size differences, land value, quality and amenities, if needed.
- Based on the adjustments to the comparables and the interior and exterior inspection of the subject property the subject value was estimated at \$xxx,xxx.
- The subject property was a rental property prior to being purchased by (owner) on 11/15/2006.
- The prior owner was liquidating all rental properties and took a loss in order to achieve a quick sale.
- This prior sale of the subject property was a disqualified sale and was not believed to reflect the current market value.
- An addition had been made to the property, which was not shown by the courthouse records, and this addition added several hundred square feet of living area. (Photos of the addition were included with the original appraisal.)

Regarding the second allegation of failure to analyze the current agreement of sale, the subject property was occupied by the borrowers at the time of the appraisal. According to the agent, the property owner's son, the borrowers and the owner had a verbal agreement of sale. At the time of the appraisal there was no formal, written agreement of sale between the borrower and the owner. The sales agreement is attached with this letter and shows the date as March 7th, 2007. This date reflects 2 days after the inspection of the subject property (one day after date signed).

Regarding the third allegation of insufficiently describing the property characteristics, Respondent states the neighborhood description, market conditions, property general description and the condition of the property were adequately described. Respondent states the subject has had an addition added to the dwelling and that this addition was not shown on the courthouse records as of the time of the inspection. *No prior complaint history.*

Recommendation and reasoning: Mr. Headden found the appraiser failed to properly analyze sales contract. Even though the contract was verbal, the appraiser should have verified more and described the analysis in the appraisal report, including the 6% the seller paid in closing cost and whether this was typical for the market. Also, the appraiser failed to put in listing information, i.e. list price. In sales comparison approach, the Respondent failed to properly analyze the comparable sales. The sales prices of comparables displayed had a 40% difference in highest and lowest sales price. No explanation was given in the appraisal report and it appeared that the comparables used are superior to the subject. In the cost approach, there is insufficient explanation of the site value. Property appears to have been overvalued. Mr. Headden recommends a **Consent Order** to include an Appraisal Procedures course (30 hours) with successful completion of the examination, and no credit given for continuing education; a Cost Approach course (30 hours) with successful completion of the examination, and no credit given for continuing education; and a \$1,500 civil penalty. Staff recommends approval of informal conference and formal hearing, as needed.

Vote: A motion was made to approve the recommendation by Mr. Wade. Mr. Phillips seconded that motion. The motion carried unopposed.

6. L07-APP-RBS-2007069861 – The reviewer was Mr. Headden.

The Complainant, a consumer, alleged the multiple appraisers have appraised their home and that the last appraisal completed had a lower value opinion than the purchase price of their home four years ago. The home was purchased in 2003 for \$126,000; appraised for \$160,000 (refinance) and they recently appraised for \$125,000(refinance). Complainant does not believe values in this area have decreased and asked the Real Estate Appraiser Commission to look into the three appraisals they have had completed.

Respondent 1 *[No prior complaint history]* and **Respondent 2** *[Prior complaint history: 200209965 (Dismissed); 200705412 (Dismissed)]*, a trainee and her supervisor, stated they appraised the property in 2007 for \$125,000; they used three comparables from within the subject's subdivision that were similar in characteristics and amenities; and they made adjustments for differences and feel the appraisal complies with USPAP and Fannie Mae guidelines.

Respondent 3 stated in her response letter that she appraised the property in 2005 for \$160,000, which was middle of the range of sale prices for the subject's market area. She stated that average home sale prices in this area have fallen to an average of \$136,000 currently, and appraised values to an average of \$104,000. She stated that high foreclosure rates and "interest only" loans are to blame.

Regarding the allegation of over-valuing the subject, she denies that allegation and states that equal comparables were used and were located in comparable subdivisions, all within the same market as the subject. Respondent states she has not appraised a property in the subject's market in more than 12 months, so she is not familiar with the current condition of the subject's neighborhood or the neighborhood of the comparables; however, at the time of the 2005 appraisal, the neighborhoods appeared comparable in condition and quality of homes and they were definitely comparable in proximity to places of employment, worship, shopping and learning institutions.

Respondent writes:

"One way in which my comps were chosen was the prior sales dates and prices. If you will notice on the appraisal, the subject sold on 7-30-03 in the amount of \$125,900 and comp 2 sold just after that time in August 2003 for a similar amount - \$120,200. Furthermore, comp one sold in March 2002 for \$135,000. These prior sales of the comps lined up with the subjects prior sale of \$125,900, so in my opinion, I felt as if I were dealing with similar homes in similar subdivisions all within the same market. The subject and all comps are located in older neighborhoods and there is a large variety of homes in these older neighborhoods and not all sales can be considered suitable comps for any particular subject. At the time of my appraisal, I found one other sale in the subject's subdivision and chose not use the sale as a comp for the following reasons: the sale was a 2 story construction with on 1,344 square feet and on a crawl. The sale did not have a garage, only a 2 car carport and had 3 bedrooms and 1.5 baths. The home sold for \$113,500 - much less than the selling price of the subject just slightly over a year before. This was the lowest sale that I found and I made the decision not to use it in the appraisal due to the number of differences and the low sales price. At that time, the market was booming, the idea of the subject being located in a declining market wasn't realistic. Therefore, I searched for more comparable properties. The sales comparables that were chosen for this appraisal were chosen primarily for their age, design, appeal and proximity. All comps were similar in square footage, all comps had similar finished area in the basement, all were similar in age and all had some type of updating and/or remodeling. Other sales in the area that could have been used in the appraisal and were considered in my selection process; however, they were not constructed as well as the subject and the comps chosen; meaning, some had cinderblock foundations covered by stucco all around the foundation, while the subject and comps had brick or stone over the block. The exterior walls were aluminum or less expensive wood siding, while the subject had brick and vinyl siding. Many were much smaller in square footage and many were located in inferior neighborhoods or beyond the point of the cut-off for my search.

I will say that over the past 2 years my method in which I search for comparable sales has changed significantly. My searches used to be limited to the supplemental standards of the lenders; however, I now realize that it is necessary to search beyond what lenders will "accept" and included all that is necessary to arrive at a fair opinion of value. Most lenders will limit comps to sales having occurred within 6 to 12 months and sales located within 1 to 2 miles. I have learned that USPAP does not limit appraisers by those standards and in order to arrive at the best opinion of value it may be necessary to extend the scope of work beyond what the lender will accept. I honestly, do not know if I had followed my current practice of searching for sales, if the opinion of value for the 2005 appraisal would have been the same or more or less than the 2005 opinion of value. I do however, feel that the value would have been in line with the 2005 opinion."

Regarding the allegation of failing to support adjustments in the sales comparison respondent states, "My gross and net adjustments fall well below the recognized limits of what suggests a good comp. My square footage adjustments were made at \$20 per square foot, which is 1/3 of the dollar amount in the cost approach and which is how I was taught to make adjustments at (School of Appraisal). Likewise, the finished basement was adjusted \$10 per square foot, which again is 1/3 of the estimated dollar amount in the cost approach. The subject has a screened porch adjusted at \$1500, which again is 1/3 the estimate of the cost to construct. The subject has a deck adjusted at \$1000, which again is 1/3 the estimated cost to construct. I did notice that the subject does not have a fireplace and all comps do have a fireplace - an adjustment should have been made in the amount of \$500 to \$1000, I did fail to make the adjustment. Typically, in this area and other similar areas, the following amenities are not considered necessary to sell a home and are typically adjusted a flat rate of approximately \$500 to \$1000 per structure: small barns, out buildings and fences. Appraiser did not see a need to adjust for the age of the comps due to the fact that all had undergone some type of updating or remodeling - just as the subject had recently undergone. If I failed in my adjustments, then I was failed in my instruction. The adjustments within this appraisal are well in line with similar adjustments made by appraisers in this area and I feel that they accurately depict this market in a way that is not only fair to the borrower, but also fair to the lender and the market as a whole."

Regarding the allegation of failure to support the effective age and land value, Respondent states, "I feel that the effective age of the property was well supported by the comps chosen in the appraisal. I searched for homes with a similar actual age and that had been updated or remodeled. That is why no age adjustments were made; it would have been pure speculation. Likewise, an adjustment for age would have only benefited the subject to a higher opinion of value, since all of the comps have an older actual age. The effective age of the subject was estimated at 10 years, which at the time of my appraisal was just under 1/3 of the actual age. I do not practice this equation of 1/3 the actual age on all properties. I observe the condition of the home, the condition of the foundation, observe any settlement and observe how modern the home is in comparison to new homes. At the time of my inspection, the subject did not appear to be 28 years old. The land value was taken directly from the tax assessor's value of the land. In the subject's area there were few comparable land sales at the time of my appraisal, too few to give a good estimate, and they were not located in similar settings and/or did not compare in amount of land. If my land value estimate is not what it should have been, then Hamilton County is also taxing incorrectly."

Regarding the allegation of misreporting property characteristics, Respondent states, "This statement is very vague. To the best of my knowledge the property characteristic of the subject and all comps are true and accurate, or at least they were in 2005. I can not comment on the current property characteristics that may have changed since 2005." *No prior complaint history.*

Respondent 4's 2003 appraisal had a value opinion of \$126,000. Respondent stated that he did not over-value the subject property and did not use superior comparables; all comparables used were within the subject's subdivision; adjustments were made for differences between the subject and comparables in a consistent and logical manner; and no purchase agreement was available to the appraiser at the time of this appraisal. *No prior complaint history.*

Recommendation and reasoning: The recommendation for **Respondent 1** and **Respondent 2**, per Mr. Headden, was for approval of an **informal conference** to clarify possible issues in the appraisal report and for approval of formal hearing, if needed. Mr. Headden also recommended approval of a consent order, if determined necessary during the informal conference.

Mr. Headden states that **Respondent 3** appears to have overvalued the subject. Comparables selected appear to all be superior the subject and appropriate appraisal techniques were not used. It appears from other sources, she has incorrectly measured the subject property. The recommendation for **Respondent 3** is for a **Consent Order** to include an Appraisal Principals course (30 hours) with successful completion of the examination, and no credit given for continuing education; an Appraisal Procedures course (30 hours) with successful completion of the examination, and no credit given for continuing education; a Sales Comparison course (15 hours minimum) with successful completion of the examination, and no credit given for continuing education; a Cost Approach course (15 hours minimum) with successful completion of the examination, and no credit given for continuing education; a USPAP course (15 hours minimum) with successful completion of the examination, and no credit given for continuing education; and a \$3,000 civil penalty. Staff recommends approval of informal conference and formal hearing, as needed.

Mr. Headden states although **Respondent 4** should have done a better job of analyzing contract, however, the previous sale was reported and no other USPAP violations were noted, therefore, **dismissal** is recommended.

Vote: A motion was made to approve the recommendation by Mr. Wade. Mr. Phillips seconded that motion. The motion carried unopposed.

7. L07-APP-RBS-2007068381 – The reviewer was Mr. Flowers.

The Complainant, a consumer, alleged the Respondent violated USPAP and under-valued a residential property. The Complainant feels they are the client since they paid for and contracted the Respondent. Complainant says nothing in the Respondent's resume indicated he had competency in appraising historical properties, they were over-charged, and the scope of work performed was in excess of the needs of the client. Additionally, Complainant says that the neighborhood was not adequately described, nor was the historical nature of the subject property. Complainant says that the adjoining 4.9 acres of property (raw land) is listed for \$650,000, which is less than the value opinion given by the Respondent for their 6 acre property with a historical and preserved dwelling. The Complainant stated the Respondent failed to analyze this listing. The Complainant also stated that the description of the property being "average to good" was an understatement of the actual condition of the property because the house has been preserved in the original construction and has been restored as much as possible to the original construction (stating the quality of construction is superior, including the bricks and roofing.) Complainant also stated modernization improvements have been made to the property including air conditioning, a

new carriage house, insulation of the windows, and many other updates which were listed in the complaint. Complainant stated the Respondent misreported the access to the property, the off-site improvements, foundation/basement, and other property characteristics; that the comparables used by the Respondent were not historical homes and were inferior in quality, condition and amenities; and the Respondent did not do a complete inspection of the interior areas of the subject property. Also, he stated the Respondent did not report the stringent restrictions on the property due to its historical status.

The Respondent stated his client was the mortgage lender and he was contracted directly by them, not the Complainants, and stated he gave the appraisal directly to his client. The Respondent stated he has over nine years of experience appraising residential properties and is competent to perform this assignment. He stated the vacant land, which he stated was not adjacent, is not relevant as it is located on a highway, has potential for commercial use, and as of the date of this response, had not sold. He stated he stands by his opinion on the condition of the property and referenced Marshall and Swift Residential Cost Handbook Condition Rating Indicators as his guide. The Respondent provided further details on the descriptions of neighborhood growth, access, off site improvements, crawlspace/basement, interior materials/condition, garage, kitchen, additional features, and condition of the property. The Respondent stated he spent days researching comparables of historical properties through a variety of resources; he also stated he did inspect the interior areas of the subject property and was on-site for over 2 ½ hours. The Respondent stated the comparables he used were representative of the subject properties characteristics. He stated three of the comparables used are on this National Historic Registry. He further stated he is very familiar with the immediate neighborhood as he and his family has been in the region since the mid 1800's. The Respondent stated he stands by his value opinion and believes it to be USPAP compliant. *No prior complaint history.*

Recommendation and reasoning: The recommendation from Mr. Flowers was for **dismissal**. He stated he reviewed the appraisal, the complaint and the response and have found the appraisal is USPAP compliant and that there is no need for further action by this commission.

Vote: A motion was made to approve the recommendation by Mr. Phillips. Mr. Woodford seconded that motion. The motion carried unopposed.

8. L07-APP-RBS-2007068141 – The reviewer was Mr. Flowers.

The Complainant, a consumer, alleged the Respondent took a previous appraisal they had showed him during the inspection and failed to return that appraisal promptly. They further stated that the Respondent appraised their home for \$50,000 less than the previous appraisal one month earlier. They stated he was an out of state appraiser. They stated when asked he would not defend his appraisal to the buyer, lender, etc. They stated that due to this appraisal the deal fell through on the sale of their home and this has cost them significant amounts of money.

The Respondent stated in his response letter that:

- He never refused to return the previous appraisal to them and he mailed it to their agent's office.
- The previous appraisal did not influence his value opinion.
- He found sales in the immediate neighborhood of similar age and construction that sold and he used the most similar comparables in terms of age, size and location available.

- He cannot allow the homeowners monetary situation to influence his value opinion.
- Though the company he works for is in another state, he has lived and worked in this area all his life.
- When the homeowner called to discuss the appraisal, he told them he could not discuss it because the lender was his client in this assignment and he did not have their permission.

No prior complaint history.

Recommendation and reasoning: Mr. Flowers recommends **dismissal**. Mr. Flowers found the appraisal to be USPAP compliant. The respondent has no history of disciplinary action and this appeared to be a matter that the appraisal did not meet the hopes and desires of the home owner.

Vote: A motion was made to approve the recommendation by Mr. Woodford. Mr. Headden seconded that motion. The motion carried unopposed.

9. L07-APP-RBS-2007068081 – The reviewer was Mr. Flowers.

This complaint was filed anonymously and alleged over-valuing of a residential property, failing to analyze current agreements, failing to describe property characteristics including deferred maintenance, and failing to reconcile value indications.

The Respondents, a supervisor and his trainee, stated the comparables used were similar to the subject property and that all were within four miles of the subject property in a somewhat suburban to rural setting. Respondents stated adjustments were based on market extraction performed by staff and appraisers through the years and the condition adjustment to sale two and three is supported by comparable one. The Respondents agreed they did not satisfy the requirement of USPAP to analyze the current agreement of sale.

Respondents stated that they have set up a review process to prevent similar mistakes from happening again. They stated this sale was a transfer between family members and not an arm-length-transaction, that the roof and trim were noted as deferred maintenance and the rest of the interior had been renovated, and that although the reconciliation was brief, there was reconciliation for each of the approaches used and not used which he believed was adequate. *No prior complaint history.*

Recommendation and reasoning: The recommendation from Mr. Flowers was for a **Letter of Instruction**. The primary complaint was the report was not USPAP compliant in that the appraiser did not satisfy the Uniform Standards by analyzing the current agreement of sale. The sale was a family sale between the grandson and his grandmother. The sponsoring appraiser reported to Mr. Flowers that according to the work file and his inspecting appraiser, there was no written agreement to analyze. The pending sales price of \$40,000 was stated in the appraisal report. The fact that this was a family sale and that it was purchased under the market value should have been analyzed within the appraisal report. The supervisor stated he has set up a review process to prevent similar mistakes from happening again.

Vote: A motion was made to approve the recommendation by Mr. Phillips. Mr. Headden seconded that motion. The motion carried unopposed.

10. L07-APP-RBS-2007068071 –Mr. Wade was the reviewer.

The Complainant, a consumer, alleged the Respondent—a licensed appraiser—under-valued a residential property in an appraisal submitted to the appraiser's client, the lender. The lender has issued no complaint as of this date to Mr. Wade's knowledge. The Complainant stated the home is in an historic district with a lake view. Complainant stated the Respondent only took into consideration the previous sale price with a minor appreciation and did not recognize he had purchased the home one year ago under market value. Complainant stated comparable one is in similar condition and is a good comparable. Complainant stated comparable two is not a good comparable because it is a two story home with no lake view. Complainant stated comparable three is over six miles away and is not a good comparable. The Complainant provided two different comparables on the same street.

The Respondent stated as follows:

- There is no indication the Owner purchased the property below market value;
- The subject was listed for \$275,000.00, and complainant paid \$270,000.00;
- The lake view is obstructed by trees and homes across the street, and therefore, no value was given for this feature;
- That information on the condition on comparable one was from interior MLS photos and listed updates;
- Comparable two received reasonable adjustments for property differences;
- Comparable three is not in the immediate area however, it is within similar competing historic district;
- Of the comparables the complainant offered, one was sold at public auction and was more than one thousand square feet smaller than the subject, and the other comparable did not sell until after the effective date of the appraisal.

Prior Complaint / Disciplinary History: 200502051 (dismissed); 200602831 (dismissed)

Mr. Wade noted possible violations of the USPAP Confidentiality Rule as indicated in the appraiser's response, Standard Rule 1-1, Standard Rule 1-4, and Standard Rule 2-2. Problems with consistency of adjustments in the sales comparison approach, using dated and questionable cost data in cost approach, the use of questionable comparables, and problems in the development of a GRM in the income approach were noted in the review. Mr. Wade recommended, in the August 2007 meeting, that the TREAC approve an **informal conference** with approval for a formal hearing, if necessary. The motion to approve this recommendation passed unopposed.

Recommendation and reasoning: An informal conference was held this morning with the Respondent. Due to lack of support found in the appraisal report for adjustments in the sales comparison approach and for lack of support for applicability of the income approach and development of the included gross rent multiplier, Mr. Wade recommended a **Letter of Instruction** be issued to the Respondent outlining these issues.

Vote: A motion was made to approve the recommendation by Mr. Headden. Mr. Phillips seconded that motion. The motion carried unopposed.

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Being no further business, the meeting was adjourned at 3:45 p.m.

Nikole Avers, Administrative Director

William R. Flowers, Jr., Chairman